



Aboriginal Males Healing Centre
Sons of Fathers
Family Violence and Sexual Abuse Conference

Keynote address

by

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¹ I am indebted to Angela Milne for her assistance in the preparation of this address. However, responsibility for the views expressed, and any errors, is mine.

Introduction

I am greatly honoured to have been invited to address this conference on family violence and sexual abuse.

The Traditional Owners

I am very grateful to Mr Brian Tucker and to Mr Colin Peterson for their generous welcome to country. I am very pleased to acknowledge the traditional owners of the lands on which this conference is being held, the Niyaparli people, and to pay my respects to their Elders past and present and acknowledge their continuing stewardship of these lands. I am also very pleased to acknowledge the traditional owners of land in this area, the Martu people, and to pay my respects to their Elders past, present and future. I note that Mr Devon Cuimara, the founder and CEO of the Aboriginal Males Healing Centre (AMHC), and the chair of the governing committee of the AMHC, Mr Lex Collard, are both Noongar men. The fact that Niyaparli, Martu and Noongar people have come together to support and develop the AMHC project in Newman gives cause for considerable optimism and confidence in relation to the future of this important project.

I would also like to acknowledge the presence of my co-patron, Chief Judge Stephen Thackray, Chief Judge of the Family Court of Western Australia, and express my gratitude to the organisers of this conference for the very considerable body of work which they have put into its preparation and delivery.

The importance of family

It is impossible to overstate the importance of family to the society and communities in which we all live. Ever since *homo sapiens* walked out of Africa, the family has been the central unit in the various cultures, societies and communities which were created as *homo sapiens* spread around the world. Different concepts of family have evolved in those different societies and cultures. So, for example, the Australian Aboriginal concept of family is much older, much broader and much more sophisticated than the rather narrower notion of family which the European colonists imported into Australia.

However, whatever the precise breadth of the notion of family in any particular culture, its basic function is to provide a loving, stable and secure environment in which children can be nurtured. We now know that the physical and emotional environment in which we develop as children has a profound effect upon the adult we become.

Family violence strikes at the heart of society

Because of the vital importance of family in human development, violence or sexual abuse within the family strikes at the very heart of who we are, and who our children will become. The trauma of family violence and child sex abuse seriously impedes the development of the children subjected to it, thereby undermining social cohesion and the strength of our society.

Intergenerational cycles of trauma

We know from research, and from anecdotal experiences of the kind related at this conference, that family violence and child sex abuse

creates intergenerational cycles of trauma in which the impeded development caused by exposure is passed from parent to child, in cycles which can persist through many generations.² These tragic cycles have to be broken if we are to reduce the scourge of family violence and child sex abuse and make our families, and our communities, safer and stronger.

Normalisation

The intergenerational cycles to which I have referred occur in part because trauma within the family becomes an integral part of the normal family experience for children exposed to that trauma. Family violence can become normalised, and a tolerated or even expected part of family life.

Neurological development

Another reason for the intergenerational cycles of trauma to which I have referred is the impact which exposure to such trauma has upon the neurological development of the young and adolescent brain. There is now a body of science which strongly suggests that exposure to trauma during the growth and development of the brain has an effect upon the neurological pathways which are built during that development phase.³ Those neurological pathways are in place for life, and affect the way in which our brains work. Children who have

² See, eg, Dr Selina Tully, Dr Debbie Faulkner, Cecile Cutler and Associate Professor Michele Slatter *Women, Domestic Violence and Homelessness: A Synthesis Report* (2008) 19 <https://www.dss.gov.au/sites/default/files/documents/05_2012/synthesis_report2008.pdf>.

³ See, eg, Sara McLean, *The effect of trauma on the brain development of children: Evidence-based principles for supporting the recovery of children in care* (June 2016) <<https://aifs.gov.au/cfca/publications/effect-trauma-brain-development-children>>; Australian Institute of Health and Welfare - Closing the Gap Clearinghouse, "Family violence prevention programs in Indigenous communities" (Resource Sheet No. 37, December 2016) 3.

been exposed to physical or sexual trauma during childhood are therefore likely to think and behave differently to those who have enjoyed the security and stability of a loving and caring family environment.

The long-term impact of exposure to childhood trauma can be profound, through a combination of the mechanisms to which I have referred. Children exposed to such trauma are less likely to participate in education, or succeed in educational endeavours.⁴ As a consequence, they are less likely to participate in employment or to achieve employment in the area of their choosing. The dysfunction and disadvantage which they experience can often result in self-medication by using alcohol or drugs at an early age, which in turn places them into the criminal trajectory which we see all too often, and often induces very poor health outcomes.⁵

The criminal justice system, including police, courts and prisons, is very expensive, as is the health system. The burden which exposure to childhood trauma places upon taxpayers is likely to be very substantial indeed. Of course, the consequences of exposure to childhood trauma should not be measured in purely financial terms, but should also include an assessment of the pain and long-term suffering which it generates. In many cases, lives are, in effect, ruined as a result of exposure to offending behaviour of this kind.

⁴ See, eg, Australian Institute of Health and Welfare - Closing the Gap Clearinghouse, "Family violence prevention programs in Indigenous communities" (Resource Sheet No. 37, December 2016) 3.

⁵ See, eg, The National Traumatic Stress Network, *Effects of Complex Trauma* <<http://www.nctsn.org/trauma-types/complex-trauma/effects-of-complex-trauma#q8>> (accessed 6 December 2017).

Reporting

There is good reason to believe that a great deal of family violence and child sexual abuse goes unreported. Of course, by definition, we will never know precisely how much of this behaviour goes unreported.⁶

In the case of family violence, victims are often discouraged from reporting by the possible consequences, including the incarceration of a family member, perhaps the family member responsible for producing an income which pays the rent and puts food on the table. Victims might also be discouraged from reporting by the prospect of breakdown of the family unit. Victims may fear that disclosure could result in physical and social repercussions, and alienation from not only the family but also the community.⁷ They may not report because they feel shame,⁸ and/or because family violence is often still considered to be a private matter.⁹

In the case of child sex abuse, the victims are often vulnerable and impressionable, and subject to the effective control of the perpetrator, who is able to use that power and influence to prevent disclosure. Child victims may also be unaware that the behaviour to which they are subjected is unacceptable in the wider community.

⁶ In the taxonomy made famous by Donald Rumsfeld, the volume of unreported family violence and child sex abuse is a "known unknown".

⁷ Anthony Morgan and Hannah Chadwick, "Key Issues in Domestic Violence" (Australian Institute of Criminology, Research in Practice Summary Paper No. 7, December 2009) 4.

⁸ Urbis, *Literature review on domestic violence perpetrators* (2013) 4

<<https://www.dss.gov.au/our-responsibilities/women/publications-articles/reducing-violence/literature-review-on-domestic-violence-perpetrators>>.

⁹ Department for Child Protection and Family Support, *Reporting Family and Domestic Violence: Resource for Journalists* (2014) 13.

<https://www.dcp.wa.gov.au/CrisisAndEmergency/FDV/Documents/Reporting%20family%20and%20domestic%20violence_Resource%20for%20Journalists.pdf>.

Aboriginal families

Family violence and child sex abuse is not constrained by culture, ethnicity or socio-economic status. It would be ridiculous to suggest that family violence and child sex abuse are peculiar to Aboriginal families or Aboriginal communities. But the regrettable fact, based upon reported behaviour, is that Aboriginal families, and Aboriginal victims, are over-represented in relation to offending behaviour of this kind.¹⁰

There is also reason to suppose that the already low rates of reporting with respect to such behaviour may be even lower in relation to Aboriginal families.¹¹ Aboriginal victims may be discouraged from reporting because of entrenched mistrust of police, courts and authority generally. That mistrust is not irrational or unreasonable, given the way in which Aboriginal people have been treated by police, courts and authority over many generations. Aboriginal victims might also be discouraged by an inability to predict the likely response of non-Aboriginal people in positions of authority when disclosure is made. Aboriginal victims are also likely to be discouraged from reporting because the phenomenon of the "Stolen Generation" is still very much alive and very real to many of them. Aboriginal mothers are understandably concerned at the prospect that disclosure might result in their children being removed from the home. Those concerns

¹⁰ See, eg, Australian Institute of Health and Welfare - Closing the Gap Clearinghouse, "Family violence prevention programs in Indigenous communities" (Resource Sheet No. 37, December 2016) 1, 4 and 5.

¹¹ See, eg, Australian Institute of Health and Welfare - Closing the Gap Clearinghouse, "Family violence prevention programs in Indigenous Communities" (Resource Sheet No. 37, December 2016) 1 and 4.

are exacerbated by the rapidly increasing rate at which Aboriginal children are being placed in out of home care all around Australia.¹²

Some data on Aboriginal families

The disincentives to reporting in general, and in Aboriginal families in particular, mean that any data relating to the prevalence of family violence and child sex abuse must be regarded as indicative only. However, and subject to that important caveat, such data as we have suggests that intimate partner violence contributes almost five times more to the total burden of disease¹³ borne by Aboriginal Australians than to the burden borne by non-Aboriginal Australians.¹⁴ The national survey data shows that nearly one-quarter of the Aboriginal population aged over 15 reported they were a victim of threatened or actual violence of any type in the preceding year.¹⁵ Aboriginal Australians are also more likely to be readmitted to hospital as a result of personal violence than other Australians.¹⁶

In 2014-15, the age-adjusted hospitalisation rate for non-fatal assaults from family violence for Aboriginal women was 32 times the rate for

¹² The number of Aboriginal and Torres Strait Islander children living in out-of-home care rose from 46.2/1000 children in 2012 to 56.6/1000 children in 2016: Australian Institute of Family Studies, "Child Protection and Aboriginal and Torres Strait Islander Children" (Child, Family, Community Australia Resource Sheet, August 2017).

¹³ The total burden of disease is generally measured using the disability- adjusted life years (DALY) measure. See, eg, World Health Organization, *Health topics: Global burden of disease* (2017) <http://www.who.int/topics/global_burden_of_disease/en/>.

¹⁴ Australian Institute of Health and Welfare, *Australian Burden of Disease Study: Impact and causes of illness and death in Aboriginal and Torres Strait Islander People 2011*, 105 <<https://www.aihw.gov.au/getmedia/e31976fc-adcc-4612-bd08-e54fd2f3303c/19667-bod7-atsi-2011.pdf.aspx?inline=true>>.

¹⁵ Australian Institute of Health and Welfare - Closing the Gap Clearinghouse, "Family violence prevention programs in Indigenous Communities" (Resource Sheet No. 37, December 2016) 1.

¹⁶ Australian Institute of Health and Welfare - Closing the Gap Clearinghouse, "Family violence prevention programs in Indigenous Communities" (Resource Sheet No. 37, December 2016) 1.

non-Aboriginal women.¹⁷ Rates of assault vary by geographical area and are highest in remote and very remote areas (where Aboriginal people are over-represented), and lowest in major cities.¹⁸

Risk factors

Studies have identified a number of factors which increase the risk of family violence. The results of those studies are not surprising and correspond generally to the conclusions one would draw from intuition and anecdotal evidence. No single risk factor predicts the probability that an Aboriginal person will be the victim of family violence, although there is no doubt that alcohol is a major contributor to violence in Aboriginal communities, including family violence.¹⁹ Studies suggest that risk factors known to increase the propensity toward violence within Aboriginal communities include:

- high levels of alcohol misuse and illicit drug use;
- high levels of individual, family and community instability and additional social stressors such as:
 - poor and overcrowded housing conditions,
 - financial difficulties,
 - low education,
 - low income, and
 - high unemployment;

¹⁷ Australian Institute of Health and Welfare - Closing the Gap Clearinghouse, "Family violence prevention programs in Indigenous Communities" (Resource Sheet No. 37, December 2016) 1.

¹⁸ Australian Institute of Health and Welfare - Closing the Gap Clearinghouse, "Family violence prevention programs in Indigenous Communities" (Resource Sheet No. 37, December 2016) 1 and 5.

¹⁹ Anthony Morgan and Hannah Chadwick, "Key Issues in Domestic Violence" (Australian Institute of Criminology, Research in Practice Summary Paper No. 7, December 2009) 8.

- a remote location and poor access to services (such as police presence);
- a childhood experience of violence and abuse;
- a younger age (14-15 years, reaching a peak during the mid-20s and early 30s);
- a relationship between the victim and the perpetrator;
- for mothers, being a single parent and/or having been forcibly removed from her natural family;
- poor physical and mental health; and/or
- a disability.²⁰

These studies coincide with my personal experience as a judge of the Supreme Court. I have travelled to regional Western Australia to preside over homicide trials involving the death of an Aboriginal partner at the hands of another far too often. The level of violence established by the evidence in those cases is truly shocking. Substance abuse, especially misuse of alcohol, mental health issues and a long prior history of domestic violence are very common features of such cases.

Public attention to family violence

The prodigious efforts of Ms Rosie Batty²¹ and the White Ribbon movement²² have attracted a great deal of public attention to the

²⁰ Australian Institute of Health and Welfare - Closing the Gap Clearinghouse, "Family violence prevention programs in Indigenous Communities" (Resource Sheet No. 37, December 2016) 6.

²¹ Ms Rosie Batty established the Luke Batty Foundation in 2014, after her 11 year old son was murdered by his father: Luke Batty Foundation (2017) <<https://lukebattyfoundation.org.au/>>.

²² The White Ribbon movement began as a response to the massacre of 14 female students at the University of Montreal in 1989. A group of men in Toronto started this male-led movement to raise awareness of violence against women and children in 1991, with an annual awareness-raising

scourge of family violence. This is long overdue. Happily, the attention of governments has also been attracted and money is being spent and policies are being developed to respond to the problem.

Popular punitivism

Whenever significant public attention is attracted to abhorrent criminal behaviour, there is a natural and entirely understandable tendency to react by calling for condign punishment for offenders. In serious cases of family violence, the courts of Western Australia will respond with appropriately severe sentences, and I do not for a minute suggest that any other approach could or should be taken. However, in my view, the safety of victims should be the paramount concern of public policy in this area, and the safety of victims is not always improved by a custodial sentence. It is very difficult to achieve meaningful behavioural change, especially in relation to family interactions, when the perpetrator is in a custodial environment. Those prospects are reduced even further in the extremely overcrowded custodial environment which currently exists in Western Australia, in which the attention of corrections authorities is necessarily focused upon accommodating the ever-increasing number of prisoners. The capacity of those authorities to provide appropriate behavioural change programmes is necessarily constrained by the overcrowding in our prisons.

An overly punitive response to less serious cases can do more harm than good. Many victims of family violence do not want the

perpetrators to be in prison, because of the economic and social disruption to the family unit which will follow. What they want is for the offending behaviour to stop. I have already referred to the factors which contribute to produce very low rates of reporting of family violence. An increasingly punitive response to such violence is likely to further reduce already low rates of reporting, and even the best policies cannot assist victims or perpetrators not known to the authorities. The best way of protecting victims is to respond in a way which maximises the prospect of behavioural change, reducing the risk of further offending. In less serious cases, a non-custodial disposition may create a greater opportunity for meaningful behavioural change.

However, consistently with my proposition that the safety of victims should be the paramount consideration, a non-custodial disposition will only be appropriate where arrangements can be made to provide appropriate protection to victims. I reiterate that in cases of serious violence, a term of imprisonment will generally be the only sentence which appropriately responds to community expectations and the need for the punishment to fit the crime.

Regional Australia

There are particular problems dealing with family violence in regional Australia, especially in regional Western Australia, where appropriate non-custodial supervision may not be available, and the placement of a perpetrator in custody may result in his removal from family and country to a prison, perhaps thousands of kilometres away.

So, in regional Australia, if an alleged perpetrator cannot be given bail on conditions which will involve appropriate accommodation and supervision to reduce the risk of reoffending to acceptable levels, the court will have no alternative but to refuse bail, in which case the alleged perpetrator will be remanded in custody and removed to a prison, often a very long way from the alleged perpetrator's home and family.

Leaving the victims in the family home

Under current arrangements it is often necessary for victims to leave the family home and find other accommodation, perhaps in a publicly-funded or charitable refuge. Family violence is a key causal factor for family homelessness in both Aboriginal and non-Aboriginal Australians.²³

Leaving the family home significantly exacerbates the harm suffered as a consequence of the offending behaviour. If victims move in with extended family members there may be unintended consequences for the tenants such as the risk of eviction, and the experience of living in overcrowded conditions can leave children with feelings of hopelessness and dependency.²⁴ Mothers in unstable housing face a real fear that their children may be removed from their care.²⁵

²³Debbie Noble-Carr, *The experiences and effects of family homelessness for children: A literature review by the Institute of Child Protection Studies* (2006) 17-18, 21-22 <https://www.communityservices.act.gov.au/__data/assets/pdf_file/0004/10300/Homeless_Children_LitReviewExperiences.pdf>.

²⁴Debbie Noble-Carr, *The experiences and effects of family homelessness for children: A literature review by the Institute of Child Protection Studies* (2006) 26 <https://www.communityservices.act.gov.au/__data/assets/pdf_file/0004/10300/Homeless_Children_LitReviewExperiences.pdf>.

²⁵Debbie Noble-Carr, *The experiences and effects of family homelessness for children: A literature review by the Institute of Child Protection Studies* (2006) 52

Systems which enable victims to remain in the family home, while alleged perpetrators are removed, are obviously preferable. However, the removal of an alleged perpetrator to a prison many miles away may have some of the adverse consequences to which I have referred. An arrangement whereby alleged perpetrators can be required, as a condition of bail, to live in appropriately supervised accommodation within the region will often be the most desirable outcome. The problem is that there simply is no appropriately supervised accommodation available.

The paradigm model

Taking all these considerations into account, it seems to me that the paradigm model would give paramount consideration to the protection of victims and ideally focus upon arrangements which can leave victims safe and secure in the family home. While there will be cases in which the protection of victims will require the refusal of bail and the remand of an alleged perpetrator in custody, there will be many occasions upon which an alleged perpetrator could be released on bail on the condition that he live in specified accommodation under appropriate supervision. Ideally, that accommodation would include access to a therapeutic programme or programmes which will commence the process of behavioural change which, if successful, is the best way of protecting victims.

I am very pleased to note that the AMHC proposed for Newman has all of these features. The AMHC is proposed to be constructed on

<https://www.communityservices.act.gov.au/__data/assets/pdf_file/0004/10300/Homeless_Children_LitReviewExperiences.pdf>.

land near Newman airport, approximately 11 kilometres from town, which is the ideal location for such a facility, close enough to town for services and supervised contact to be maintained, but not so close to town as to create risks of absconding and inappropriate contact with victims.

Perpetrator intervention programmes

The AMHC project is a good example of what are generally described as, in Australia at least, “perpetrator interventions”. In the field of family violence, they are a relatively recent phenomenon, having emerged over the last 30 years or so. I must say that I prefer the name given to such programmes in Australia to that commonly used in the USA – “batterer programmes”.

The Duluth model

Many of these programmes have the features of what has come to be known as the Duluth model - named after a ground-breaking programme implemented in Duluth, Minnesota. Although there are a number of variations on the model, they generally have three fundamental features, namely:

- court mandated;
- non-custodial; and
- co-ordinated community responses.²⁶

²⁶ Domestic Abuse Intervention Programs, *What is the Duluth Model* (2017) <<https://www.theduluthmodel.org/what-is-the-duluth-model/>>; Australia's National Research Organisation for Women's Safety, "Perpetrator interventions in Australia: Part one – literature review. State of knowledge paper" (November 2015) PP01 *Landscapes* 21- 22.

Court mandated

Studies suggest that, perhaps unsurprisingly, programmes that operate on a voluntary basis have a higher rate of success than involuntary or court-mandated programmes. I describe that result as unsurprising because a perpetrator who volunteers to undertake a programme will, in most cases, have developed motivation to change, and perhaps some insight into the causes of their offending behaviour and its consequences. By contrast, the same assumptions cannot be made in respect of a perpetrator who undertakes a programme because the alternative is imprisonment.

However, in my view, the extent of family violence in our community does not give us the luxury of waiting until perpetrators reach the point at which they have developed motivation for change before intervening. Although voluntary programmes have higher rates of success, court-mandated programmes nevertheless have comparable rates of success and certainly sufficient rates of success to justify their cost.²⁷

In Western Australia, there is no need to alter the law to provide an opportunity for court-mandated intervention programmes. In fact, under the existing law there are a number of ways in which such programmes could be mandated - either as a condition of bail,²⁸ or as a condition of a community-based order²⁹ or intensive supervision

²⁷ Andrew Day, "Working with perpetrators of domestic violence to change their behaviour" (2016) 37(5) *InPsych*, <[https://www.psychology.org.au/inpsych/2015/october/day/.](https://www.psychology.org.au/inpsych/2015/october/day/)>; Urbis, *Literature review on domestic violence perpetrators* (2013) 14 <<https://www.dss.gov.au/our-responsibilities/women/publications-articles/reducing-violence/literature-review-on-domestic-violence-perpetrators>>.

²⁸ *Bail Act 1982* (WA) s 17.

²⁹ *Sentencing Act 1995* (WA) s 66.

order,³⁰ or by deferring sentence for a period during which the offender can be subjected to conditions.³¹

Non-custodial interventions

As I have already noted, experience strongly suggests that behavioural change programmes delivered in a non-custodial environment are much more likely to be successful than those delivered in a prison environment.

Co-ordinated community responses

Both research and experience in this field strongly suggests that programmes which involve a co-ordinated response from various community agencies are much more likely to succeed than a solo programme delivered by a sole provider.³² Perpetrators will often have multifaceted needs in areas like counselling for anger management, substance abuse, mental health issues and employment issues. In some cases family violence can be a response to the frustration and stress generated by other problems of the kind I have just mentioned.

Drivers for success in Aboriginal family violence intervention programmes

A number of studies have identified the features of intervention programmes aimed at Aboriginal offenders which are likely to

³⁰ *Sentencing Act 1995* (WA) s 73.

³¹ *Sentencing Act 1995* (WA) s 84A.

³² Deborah Loxton, Stacey Hoskings, Jennifer Stewartwilliams, Julie Brookes, Julie Byles, *Selected domestic and family violence prevention programs: An Evidence Check rapid review brokered by the Sax Institute for the Violence Prevention Coordination Unit, NSW Department of Premier and Cabinet* (2008) 26 <https://www.saxinstitute.org.au/wp-content/uploads/30_Selected-domestic-and-family-violence-prevention-programs.pdf>.

increase the prospects of success. A study conducted by Loxton, Hoskings and others at the University of Newcastle has shown that programmes for Aboriginal men are more likely to be successful if they:

- had been developed for and in consultation with the local community;
- respect local culture;
- involve interagency collaboration, including drug and alcohol services;
- address racism within systems (eg, health, housing, police);
- are multidisciplinary and holistic; and
- use culturally competent service providers.³³

The same authors refer to the Partnerships Against Domestic Violence meta-evaluation which determined that where programmes had been ineffective it was largely because:

...they have ignored the impacts of colonisation on community, spiritual and cultural identity and wellbeing; compartmentalised the associated problems of family violence; lacked a whole community focus; and not adopted a

³³ Deborah Loxton, Stacey Hoskings, Jennifer Stewartwilliams, Julie Brookes, Julie Byles, *Selected domestic and family violence prevention programs: An Evidence Check rapid review brokered by the Sax Institute for the Violence Prevention Coordination Unit, NSW Department of Premier and Cabinet* (2008) 26 <https://www.saxinstitute.org.au/wp-content/uploads/30_Selected-domestic-and-family-violence-prevention-programs.pdf>.

*developmental approach to service delivery and community involvement and ownership.*³⁴

Australia's National Research Organisation for Women's Safety (**ANROWS**) published a literature review relating to Aboriginal offender interventions in 2015.³⁵ The review identified the importance of:

- targeting the particular causes of family/domestic violence in Aboriginal communities (including the impact of colonialism, family dysfunction, substance abuse, entrenched poverty, loss of culture and kinship relations, the effects of institutionalisation and geographical isolation);
- acknowledging the Aboriginal view that family/domestic violence is less about patriarchal power than "a compensation for lack of status, esteem and value or an expression of trauma";
- a strong cultural foundation and a holistic approach encompassing the social, emotional, spiritual and cultural wellbeing of the individual and the community; and
- using values and concepts to which the men can relate (with terminology such as "perpetrator" being particularly unhelpful and not a term that resonates with Aboriginal men).

³⁴ Tricia Szirom, Donna Chung, Russell Gaffe, *Indigenous Domestic Violence: Phase 1 Meta-evaluation Report for the Office of Status of Women, Partnerships Against Domestic Violence* (2003) 13.

³⁵ Australia's National Research Organisation for Women's Safety, "Perpetrator interventions in Australia: Part one – literature review. State of knowledge paper" (November 2015) PP01 *Landscapes* 14-15.

These studies suggest that Aboriginal offender interventions will be more likely to be successful if they have the following characteristics (at least):³⁶

- The project and programmes must be driven and controlled by Aboriginal people.
- The programmes and counselling must be culturally relevant and appropriate.
- Wherever possible the programme should be delivered by Aboriginal counsellors.
- Multi-agency collaboration supporting the project is essential.
- The rehabilitative programme offered to perpetrators must be holistic and multifaceted, addressing all of the perpetrator's individual and particular needs (including violence and anger management, substance abuse, mental health, etc).
- The project must be set up on an economic basis which is sustainable in the longer term.
- The project must be adequately resourced - experience suggests that projects which are under-resourced place unreal expectations on the individuals involved in the programmes, with consequent burn-out and collapse of the programme.

³⁶ Australia's National Research Organisation for Women's Safety, "Perpetrator interventions in Australia: Part one – literature review. State of knowledge paper" (November 2015) PP01 *Landscapes*; Deborah Loxton, Stacey Hoskings, Jennifer Stewartwilliams, Julie Brookes, Julie Byles, *Selected domestic and family violence prevention programs: An Evidence Check rapid review brokered by the Sax Institute for the Violence Prevention Coordination Unit, NSW Department of Premier and Cabinet* (2008) <https://www.saxinstitute.org.au/wp-content/uploads/30_Selected-domestic-and-family-violence-prevention-programs.pdf>; Australian Institute of Health and Welfare - Closing the Gap Clearinghouse, "Family violence prevention programs in Indigenous communities" (Resource Sheet No. 37, December 2016).

- The programmes must be evidence driven, and sufficiently flexible to respond to analysis which shows what is working, and what is not working.

Again, I am pleased to note that the AMHC proposed for Newman aspires to many, if not all, of these characteristics.

Measuring outcomes

As I have noted, it is highly desirable for the outcomes of perpetrator interventions to be measured - ideally in such a way as to identify those features of the programmes which are contributing to success, and those which are not. However, there is a strong tendency to measure such programmes by reference to a sole indicator of success - namely, recidivism or reoffending rates within a defined period of completion of the intervention. This approach has many dangers.

Flawed studies

One of the many problems with this approach is that many of the recidivism studies have been seriously flawed. A flawed study conducted in Western Australia some years ago was used by government as a basis for making significant policy changes in relation to responses to family violence.³⁷ Many studies fail to compare those who have undertaken perpetrator interventions with an appropriate control group.³⁸ Given the very real prospect that those

³⁷ Research and Analysis Branch: Department of the Attorney General, *Evaluation of the Metropolitan Family Violence Court and Evaluation of the Barndimalgu Court* (2014) <http://www.department.dotag.wa.gov.au/_files/fvc_evaluation_report.pdf>.

³⁸ See, eg, Urbis, *Literature review on domestic violence perpetrators* (2013) 12 <<https://www.dss.gov.au/our-responsibilities/women/publications-articles/reducing-violence/literature-review-on-domestic-violence-perpetrators>>.

subjected to perpetrator intervention programmes are more likely to represent the more problematic cases than others who are not subjected to such programmes, a qualitative assessment of the characteristics of offenders within each of the two groups is essential to ensure a reliable comparison.

Interventions are not just about reoffending

Interventions are not just about reoffending - they ought to be primarily about victim safety. Accordingly, interventions which focus upon victim safety and improving victim confidence have a virtue of their own, which may be unrelated to the rate of reoffending. For example, if a programme provides greater information to courts and others making decisions with respect to bail, and/or encourages the development of expertise in risk assessment on the part of those making bail decisions, or imposing sentences, victim safety will be improved. Further, programme facilitators may use their contact with perpetrators to link victims to support services to enhance victim safety, and participation in a programme provides opportunities to monitor ongoing risk to victims.³⁹

Realistic expectations

Another common feature of perpetrator interventions is the unrealistic expectations which attend their implementation. The understandable enthusiasm of those developing projects in this area encourages optimistic views of their likely consequences. However, it is generally unrealistic to think that patterns of behaviour which have been long

³⁹ See, eg, Andrew Day, "Working with perpetrators of domestic violence to change their behaviour" (2016) 37(5) *InPsych*, <<https://www.psychology.org.au/inpsych/2015/october/day/>>.

entrenched, and which may be the product of intergenerational experience and trauma, are likely to be amenable to complete resolution through one intervention. The reality is that behavioural change takes time, and cannot be expected to occur overnight. It is more likely to be gradual than immediate or dramatic, therefore programmes that have even a modest impact on behaviour can have significant worth.⁴⁰

Measuring family violence reoffending

Another problem besetting many of the recidivism studies in this area is that they measure recidivism generally - that is, all kinds of reoffending, and not just family violence offending. If the focus of an intervention is upon reducing family violence offending, the fact that a perpetrator has committed some other type of offence is not relevant to the assessment of the success of the intervention.

The frequency and severity of reoffending

Another common feature of these studies is that they only measure the fact of reoffending within the defined period and measure success on the basis of that simple measure. However, because, as I have mentioned, change in this area is likely to be gradual rather than immediate, more appropriate assessments involve measuring the frequency of reoffending, and the severity of the offences committed. So, if an intervention has the effect that a perpetrator is offending less frequently, or less seriously, the programme can be regarded as a

⁴⁰ Andrew Day, "Working with perpetrators of domestic violence to change their behaviour" (2016) 37(5) *InPsych*, <<https://www.psychology.org.au/inpsych/2015/october/day/>>.

success, even though offending behaviour has not been completely eliminated.

National outcome standards

Last year, the Council of Australian Governments published national outcome standards for perpetrator interventions in the field of family violence.⁴¹ The headline standards identified were:

1. Women and their children's safety is the core priority of all perpetrator interventions.
2. Perpetrators get the right interventions at the right time.
3. Perpetrators face justice and legal consequences when they commit violence.
4. Perpetrators participate in programmes and services that enable them to change their violent behaviour and attitudes.
5. Perpetrator interventions are driven by credible evidence to continuously improve.
6. People working in perpetrator intervention systems are skilled in responding to the dynamics and impacts of domestic, family and sexual violence.

Conclusion

Public and government attention has, at last, been directed to the scourges of family violence and child sexual abuse. The community expects, and courts are required by law, to impose punishments upon offenders that are appropriate to the seriousness of the offence

⁴¹ Council of Australian Governments, *National Outcome Standards for Perpetrator Interventions* (endorsed 11 December 2015) <<https://plan4womenssafety.dss.gov.au/national-outcome-standards-for-perpetrator-interventions/>>.

committed. In more serious cases, often the only appropriate punishment will be a term of imprisonment. However, in less serious cases the benefit to be derived from perpetrator intervention programmes is now well recognised and a number of these programmes have been implemented around Australia.

Studies have shown the features which are likely to lead to improved success for programmes of this kind aimed at Aboriginal offenders. If we are serious about protecting the victims of family violence, including Aboriginal women and children, we must make effective programmes of this kind available not just in metropolitan settings, but in regional settings as well.

The AMHC proposed for Newman, Western Australia has the characteristics which place it within the paradigm of models for intervention programmes of this kind. I am very pleased to serve as one of the patrons for the project, and wish it every success.